LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

(ISSN: 2583-7753)

Volume 2 | Issue 1

2024

© 2024 LawFoyer International Journal of Doctrinal Legal Research

Follow this and additional research works at: www.lijdlr.com
Under the Platform of LawFoyer – www.lawfoyer.in

After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal LegalResearch has decided to publish this submission as part of the publication.

In case of **any suggestions or complaints**, kindly contact info.lijdlr@gmail.com

To submit your Manuscript for Publication in the **LawFoyer International Journal of DoctrinalLegal Research,** To submit your Manuscript Click here

ENTITLEMENT AND ACCOUNTABILITY OF LIVE-IN PARTNERS IN INDIAN PERSPECTIVE: A LEGAL ANALYSIS

Sandeep Kumar Sharma[1]

I. ABSTRACT:

Live-in relationships have become increasingly prevalent in contemporary Indian society, challenging traditional notions of marriage and family. While offering individuals autonomy and freedom in their relationships, live-in partnerships also raise questions regarding entitlements and accountability under Indian law. This research article explores the legal landscape surrounding live-in relationships in India, examining the rights and responsibilities of partners involved. It discusses key judicial decisions, legislative provisions, and emerging trends, shedding light on the evolving understanding of live-in relationships within the Indian legal framework.

II. KEYWORDS:

Cohabitation, Live-in relationships, judicial, marriage and family, responsibilities of partners

III. INTRODUCTION

The dynamics of romantic relationships have undergone significant transformations in Indian society, with the concept of live-in relationships emerging as a prominent alternative to traditional marriage arrangements. Once viewed as unconventional and frowned upon by conservative norms, live-in partnerships have gradually gained acceptance, mirroring the evolving social fabric and shifting attitudes towards personal relationships. Despite the growing prevalence of live-in relationships, the legal landscape governing such arrangements in India remains murky and fraught with ambiguity. Unlike the institution of marriage, which is regulated by a comprehensive set of laws and

[1] PhD Research Scholar, Department of Law, Galgotias University Greater Noida, Uttar Pradesh.

© 2024. LawFoyer International Journal of Doctrinal Legal Research (ISSN: 2583-7753)

regulations, the legal status of live-in partnerships is characterized by uncertainty, leaving partners vulnerable and without clear entitlements or protections.

This article seeks to delve into the intricacies of live-in relationships within the Indian legal framework, shedding light on the rights and responsibilities of partners involved. By analyzing recent judicial pronouncements and legislative developments, it aims to provide clarity on the legal aspects of live-in relationships and explore the implications for individuals navigating such arrangements. One of the primary challenges surrounding live-in relationships in India lies in the absence of dedicated legislation governing them. Unlike countries such as France and the United States, where laws explicitly recognize and regulate cohabitation, India lacks a coherent legal framework for live-in partnerships. Consequently, partners in such arrangements often find themselves grappling with legal uncertainties and ambiguity regarding their entitlements and obligations.

In recent years, however, the Indian judiciary has played a pivotal role in shaping the legal discourse surrounding live-in relationships. Landmark judgments, such as the Indra Sarma v. V.K.V. Sarma and D. Velusamy v. D. Patchaiammal cases, have provided crucial clarifications on the rights of partners in live-in relationships. These rulings have affirmed the legitimacy of live-in partnerships and extended certain legal protections to partners, particularly in cases involving issues such as maintenance and domestic violence. Despite these judicial pronouncements, challenges persist in defining the rights and responsibilities of partners in live-in relationships. The lack of uniformity in judicial interpretations and the absence of specific legislation leave room for ambiguity and inconsistency in legal treatment across different jurisdictions. Moreover, societal attitudes and cultural norms continue to influence the legal discourse surrounding live-in relationships in India. While urban centers may exhibit greater acceptance and tolerance towards such arrangements, rural areas and conservative communities may still view live-in partnerships with suspicion and disapproval.

While live-in relationships have become increasingly prevalent in Indian society, their legal status remains ambiguous, posing challenges for partners seeking clarity and legal protection. This article seeks to navigate the complexities of live-in relationships within the Indian legal landscape, offering insights into the rights and obligations of partners and the implications of recent legal developments. By exploring these issues, it aims to contribute to a more nuanced understanding of live-in relationships and facilitate informed discussions on their legal and social implications.

This paper will begin by providing an overview of the legal framework governing live-in relationships in India. It will then delve into the rights and entitlements of live-in partners, including issues such as inheritance, property rights, and maintenance. Subsequently, the paper will discuss the accountability of live-in partners, particularly in cases of dissolution or disputes. Finally, it will conclude with a summary of key findings and recommendations for further research and policy development.

IV. LEGAL RECOGNITION OF LIVE-IN RELATIONSHIPS:

In India, the legal landscape surrounding live-in relationships is characterized by a lack of specific legislation, resulting in diverse interpretations and inconsistencies in legal treatment across different jurisdictions. Despite this absence of dedicated laws, the judiciary has emerged as a key player in recognizing and safeguarding the rights of partners in live-in relationships through progressive interpretations of existing legal provisions. Landmark judgments, including Indra Sarma v. V.K.V. Sarma and D. Velusamy v. D. Patchaiammal, have significantly contributed to the legal recognition of live-in relationships and the protection of partners' rights.

The case of Indra Sarma v. V.K.V. Sarma, decided by the Supreme Court in 2013, marked a significant milestone in affirming the legitimacy of live-in relationships in India. In this case, the Court held that live-in relationships, characterized by long-term cohabitation between partners without formal marriage, are not illegal or immoral. The judgment emphasized the need to recognize the changing social dynamics and evolving notions of relationships in contemporary Indian society. By acknowledging the validity of live-in

partnerships, the Court provided a crucial legal recognition to such arrangements and underscored the importance of respecting individuals' choices in matters of personal relationships.

Similarly, the case of D. Velusamy v. D. Patchaiammal, decided by the Supreme Court in 2010, contributed to clarifying the legal status of live-in relationships and delineating the rights of partners involved. In this case, the Court laid down certain criteria to determine the existence of a valid live-in relationship, including long-term cohabitation, mutual consent, and public representation of the relationship. The judgment emphasized that partners in live-in relationships are entitled to protection under the Domestic Violence Act, 2005, thereby extending legal safeguards against domestic abuse and exploitation.

These landmark judgments reflect a judicial recognition of the rights and vulnerabilities of partners in live-in relationships and underscore the need for legal protection and recourse in such arrangements. By affirming the legitimacy of live-in partnerships and extending legal safeguards to partners, the judiciary has played a crucial role in bridging the gap between evolving social norms and legal recognition in India. However, despite these significant judicial pronouncements, challenges remain in ensuring consistent and uniform legal treatment of live-in relationships across different jurisdictions. The absence of specific legislation governing live-in partnerships leaves room for ambiguity and inconsistency in legal interpretation, leading to disparities in the rights and entitlements of partners in different parts of the country. Moreover, societal attitudes and cultural norms continue to influence the legal discourse surrounding live-in relationships, with conservative perspectives often posing obstacles to the recognition and acceptance of such arrangements. Addressing these challenges requires a comprehensive legal framework that explicitly recognizes and regulates live-in relationships, ensuring clarity and consistency in legal treatment while upholding the rights and dignity of partners involved.

While, India lacks specific legislation governing live-in relationships, the judiciary has played a pivotal role in recognizing and safeguarding the rights of partners through

progressive interpretations of existing laws. Landmark judgments such as Indra Sarma v. V.K.V. Sarma and D. Velusamy v. D. Patchaiammal have provided crucial legal recognition to live-in relationships and extended protections to partners in certain circumstances. However, addressing the challenges of legal ambiguity and societal attitudes requires a concerted effort to enact comprehensive legislation that upholds the rights and dignity of individuals in live-in partnerships.

In conclusion, while live-in relationships are not formally recognized under Indian law, significant strides have been made in acknowledging the rights and entitlements of partners involved. Judicial pronouncements and legislative amendments have contributed to a more nuanced understanding of the legal status of live-in relationships, granting partners certain rights akin to those enjoyed by married couples. However, gaps and inconsistencies remain, particularly in areas such as inheritance and property rights. Moving forward, there is a need for comprehensive legislation expressly addressing the rights and responsibilities of live-in partners, providing them with greater legal certainty and protection. Additionally, awareness campaigns and social initiatives can help destigmatize live-in relationships and promote acceptance within Indian society. By addressing these issues, India can create a more inclusive legal framework that reflects the evolving dynamics of modern relationships.

V. ENTITLEMENTS OF PARTNERS:

Partners in live-in relationships are entitled to certain rights under Indian law, reflecting the evolving recognition of such relationships and the need to protect the interests of individuals involved. While the legal framework governing live-in partnerships in India is still evolving, several rights and entitlements have been affirmed through judicial pronouncements and legislative developments. One of the key entitlements of partners in live-in relationships is the right to maintenance. The concept of maintenance encompasses the financial support provided by one partner to the other for their sustenance and well-being. In cases where the relationship breaks down or one partner is unable to support themselves financially, the other partner may be obligated to provide

maintenance, akin to the obligations in a marital relationship. The right to maintenance for partners in live-in relationships has been recognized and enforced by Indian courts, emphasizing the principle of fairness and equity in such arrangements.

In addition to the right to maintenance, partners in live-in relationships may also have inheritance rights under certain circumstances. While inheritance laws in India primarily apply to legal spouses and blood relatives, recent judicial interpretations have extended inheritance rights to partners in live-in relationships in cases where the relationship meets certain criteria, such as long-term cohabitation and mutual commitment. Courts have recognized the moral and equitable claims of partners in live-in relationships to a share of the deceased partner's property, especially in cases where they have contributed to the acquisition or maintenance of assets during the relationship. Furthermore, partners in live-in relationships are entitled to protection from domestic violence under the Domestic Violence Act, 2005. The Act defines "domestic relationship" broadly to include partners in live-in relationships, thereby granting them access to legal remedies in cases of physical, emotional, or economic abuse. Partners subjected to domestic violence have the right to seek protection orders, residence orders, and monetary relief from the court, ensuring their safety and well-being within the relationship.

Apart from these specific entitlements, partners in live-in relationships may also have property rights and financial entitlements based on principles of equity and justice. While Indian law does not explicitly recognize cohabitation agreements or financial arrangements between partners in live-in relationships, courts have occasionally intervened to uphold the rights of partners in cases of dispute or breakdown of the relationship. Factors such as mutual contributions to household expenses, joint ownership of property, and shared financial responsibilities may influence the determination of rights and entitlements in such cases. Overall, while the legal entitlements of partners in live-in relationships in India are still evolving, significant strides have been made in recent years to recognize and protect their rights. The recognition of rights to maintenance, inheritance, and protection from domestic violence

reflects a growing acknowledgment of the legitimacy of live-in relationships and the need to afford partners legal recognition and recourse in matters affecting their lives and well-being. However, continued efforts are required to develop a comprehensive legal framework that provides clarity, consistency, and adequate protection for partners in live-in relationships across the country.

VI. ACCOUNTABILITY AND RESPONSIBILITIES:

In live-in relationships, partners enjoy a degree of autonomy and freedom in their personal lives, but they also bear certain responsibilities and obligations towards each other. These responsibilities are not always explicitly defined by law but are often guided by principles of equity, fairness, and good faith. While partners in live-in relationships are not bound by the same legal framework as married couples, they are expected to adhere to certain standards of conduct and fulfill their obligations towards each other.

One of the primary responsibilities of partners in live-in relationships is to provide mutual support and care for each other. This includes emotional support, companionship, and assistance in times of need. Partners are expected to respect each other's autonomy and individuality while also nurturing the relationship through communication, understanding, and empathy. By fostering a supportive and nurturing environment, partners can enhance the quality of their relationship and promote mutual well-being.

Financial responsibilities are another crucial aspect of live-in relationships. While there are no specific legal guidelines governing financial contributions in live-in relationships, partners are generally expected to share expenses and contribute to the household according to their means. This may involve sharing rent or mortgage payments, utilities, groceries, and other living expenses. Partners should openly discuss financial matters and establish clear expectations regarding financial contributions to avoid misunderstandings or conflicts in the future. Property rights and ownership can be complex issues in live-in relationships, especially when partners cohabit for an extended period of time. In the absence of legal recognition of the relationship, disputes may arise

regarding ownership of shared assets, such as real estate, vehicles, or household goods. Partners should proactively address these concerns by documenting their intentions regarding property ownership, either through written agreements or joint ownership arrangements. Clarifying property rights and responsibilities can help prevent disputes and protect the interests of both partners in the event of a breakup or separation.

Child custody and parental responsibilities are additional considerations for partners in live-in relationships, particularly if they have children together or from previous relationships. While the legal rights of unmarried partners regarding child custody may vary depending on the jurisdiction, partners should prioritize the best interests of the child and work collaboratively to provide a stable and nurturing environment for their children. This may involve making joint decisions regarding childcare, education, healthcare, and other aspects of parenting, as well as ensuring ongoing communication and cooperation between both partners. Overall, while live-in relationships offer individuals greater freedom and flexibility compared to traditional marriages, they also entail certain responsibilities and obligations towards each other. Partners should approach their relationship with honesty, respect, and a willingness to address issues collaboratively. By prioritizing open communication, mutual support, and shared decision-making, partners can navigate the complexities of live-in relationships and foster healthy, fulfilling partnerships built on trust, understanding, and mutual respect.

VII. CONCEPT OF MARRIAGE UNDER DIFFERENT PERSONAL LAWS IN INDIA:

Marriage, as a social institution, is governed by various personal laws in India, reflecting the diverse religious and cultural fabric of the country. Hindu, Mohammedan (Islamic), and Christian laws provide distinct frameworks for marriage, each rooted in its respective religious traditions and practices. This article explores the concept of marriage under these personal laws, examining their historical development, legal principles, and societal implications.

A. Marriage Under Hindu Law:

Marriage holds profound significance in Hinduism, regarded as a sacred union ordained by dharma (duty) and essential for the fulfillment of familial and spiritual obligations. The ancient texts, including the Vedas and Dharmashastras, delineate the rituals and customs associated with Hindu marriage, emphasizing its sacramental nature and eternal significance. The Hindu Marriage Act of 1955 codifies the legal framework for Hindu marriages in India. According to Hindu law, marriage is a sacrament (samskara) that entails religious duties and obligations. It is considered a divine covenant aimed at procreation, family continuity, and the fulfillment of dharmic responsibilities.

Historically, Hindu marriage was solemnized through various rites and ceremonies, such as Kanyadaan (giving away of the bride), Saptapadi (seven steps around the sacred fire), and Mangalasutra (tying of the sacred thread). These rituals symbolize the union of two individuals and their families, representing the divine union of souls. Under Hindu law, marriage is viewed as a lifelong commitment, with the husband and wife regarded as dharmapatni (partners in dharma). The concept of marital duties, including fidelity, mutual respect, and support, is enshrined in ancient texts like the Manusmriti and the Vedas. The wife is considered the ardhangini (half of the husband) and is accorded equal status and rights within the marital relationship.

B. Marriage Under Mohammedan Law:

In Mohammedan (Islamic) law, marriage is considered a civil contract (nikah) rather than a sacrament, although it carries religious significance and obligations. The Quran and Hadith provide guidelines for marriage, emphasizing mutual consent, competency of parties, and the presence of witnesses. Under Mohammedan law, marriage is contractual and requires the proposal (ijab) and acceptance (qubul) by both parties in the presence of witnesses. The consent of the parties, particularly the bride, is paramount, and any coercion or compulsion invalidates the marriage contract. Unlike Hindu law, Mohammedan law allows for polygamy under certain conditions, provided that the husband can treat all wives equally and fairly. However, the practice of polygamy is

subject to legal restrictions and societal norms in modern times. Marriage in Mohammedan law is primarily a social contract aimed at regulating familial relations and preserving lineage. While divorce is permissible, it is subject to specific procedures and conditions outlined in Islamic jurisprudence, including arbitration and reconciliation efforts.

C. Marriage Under Christian Law:

Christianity views marriage as a sacrament ordained by God, symbolizing the union of Christ and the Church. In India, marriage among Christians is governed by the Christian Marriage Act of 1872, which recognizes the sacramental nature of marriage and provides legal guidelines for its solemnization and dissolution. Christian marriage is typically solemnized through religious ceremonies conducted by clergy or church officials, signifying the spiritual union of the couple. The consent of the parties, witnessed by the community, is essential for the validity of the marriage contract.

Unlike Hindu and Mohammedan laws, Christian law prohibits polygamy and emphasizes monogamous unions as the ideal form of marriage. The indissolubility of marriage is upheld, with divorce granted only in exceptional circumstances sanctioned by the church or civil authorities. The concept of marriage under Hindu, Mohammedan, and Christian laws reflects the diverse religious, cultural, and legal frameworks in India. While Hindu marriage is characterized by its sacramental nature and familial obligations, Mohammedan marriage is governed by principles of contract and consent. In contrast, Christian marriage is regarded as a sacrament ordained by God, emphasizing monogamy and spiritual union. Despite their differences, these personal laws underscore the significance of marriage as a foundational institution in Indian society, shaping familial relations, social structures, and legal norms. By understanding the conceptual underpinnings of marriage under different personal laws, policymakers and legal practitioners can navigate the complexities of marital relationships and uphold the rights and responsibilities of individuals within diverse religious communities.

In conclusion, the concept of marriage under different personal laws in India reflects the diversity of cultural and religious traditions within the country. While Hindu, Muslim, Christian, and other communities have distinct laws governing marriage, there are also commonalities in the fundamental principles of matrimonial relationships, such as consent, legality, and the rights and duties of spouses. Despite variations in rituals, ceremonies, and procedures, the institution of marriage serves as a cornerstone of social stability and family life across these diverse legal frameworks. However, challenges arise in harmonizing these disparate laws with evolving notions of gender equality, individual autonomy, and human rights. Moving forward, there is a need for greater dialogue and reform to ensure that all marriages, regardless of religious or cultural affiliation, uphold principles of justice, equality, and dignity for all parties involved.

VIII. EMERGING TRENDS AND FUTURE DIRECTIONS:

The legal landscape surrounding live-in relationships in India is witnessing significant evolution, driven by changing social norms, judicial interventions, and the recognition of fundamental rights. As society becomes more accepting of diverse relationship structures, courts and legislatures are increasingly grappling with complex issues related to the rights, responsibilities, and legal status of partners in live-in relationships. In this context, several emerging trends and future directions are shaping the discourse on live-in relationships in India.

- **Judicial Recognition and Protection:** One notable trend is the increasing judicial recognition of the rights of partners in live-in relationships. Landmark judgments by the Supreme Court, such as Indra Sarma v. V.K.V. Sarma and D. Velusamy v. D. Patchaiammal, have affirmed the legitimacy of live-in relationships and extended legal protection to partners, particularly in cases involving maintenance, inheritance, and domestic violence. These judicial pronouncements reflect a progressive approach towards recognizing the rights and entitlements of partners in non-marital relationships.

- **Legislative Initiatives:** Despite the absence of specific legislation governing live-in relationships, there is a growing realization of the need for comprehensive legal frameworks to address the rights and responsibilities of partners. Several private member bills have been introduced in the Indian Parliament advocating for the enactment of a uniform civil code or specific legislation on cohabitation. These legislative initiatives aim to provide clarity, consistency, and legal recognition to live-in relationships, thereby safeguarding the interests of partners and promoting social justice.
- **Protection of Vulnerable Individuals:** An important consideration in the discourse on live-in relationships is the protection of vulnerable individuals, particularly women and children. Given the inherent power dynamics and potential for exploitation in intimate relationships, there is a pressing need to ensure adequate legal safeguards and support mechanisms for partners, especially in cases of abuse, abandonment, or economic dependence. The Domestic Violence Act, 2005, represents a significant step towards addressing these concerns by extending protection to partners in live-in relationships and enabling them to seek legal remedies in cases of domestic violence.
- **Recognition of Property Rights:** Property rights and ownership have emerged as contentious issues in live-in relationships, with partners often facing challenges in asserting their rights over shared assets. Courts have increasingly recognized the principle of equity and fairness in adjudicating disputes related to property rights in live-in relationships, emphasizing the contributions and intentions of partners during cohabitation. However, there is a need for clearer legal guidelines and precedents to address property disputes effectively and protect the interests of both parties.
- **Public Awareness and Acceptance:** A broader trend shaping the future of live-in relationships in India is the increasing public awareness and acceptance of diverse relationship models. As societal attitudes towards marriage and cohabitation

continue to evolve, there is a growing acceptance of live-in relationships as a legitimate choice for individuals seeking companionship, intimacy, and mutual support. This cultural shift towards greater acceptance and inclusivity is expected to influence legal reforms and policy interventions aimed at recognizing and regulating live-in relationships in the future. The legal landscape surrounding live-in relationships in India is marked by evolving judicial interpretations, legislative initiatives, and social trends. While significant strides have been made in recognizing the rights and protections of partners in live-in relationships, there remain challenges and opportunities for further legal reforms and societal acceptance. By addressing issues of legal ambiguity, vulnerability, and social stigma, India can create a more inclusive and equitable legal framework that reflects the diverse realities of modern relationships.

IX. CONCLUSION:

The entitlement and accountability of live-in partners in India pose significant challenges and opportunities within the legal framework. While the judiciary has taken progressive steps towards recognizing the rights of partners in live-in relationships, there remains a need for comprehensive legislation to address the complexities and nuances of such relationships. By ensuring legal protection, clarity, and consistency, Indian law can adapt to changing societal norms and promote fairness and justice in the realm of intimate relationships.

X. REFERENCES:

1. Baxi, Upendra. "From Pluralism to Uniform Civil Code: Family Law in Transition in India." The Modern Law Review, vol. 65, no. 6, 2002, pp. 905-928.
2. Dutta, Swarup. "Legal Recognition of Live-in Relationships in India: An Analysis." Journal of Indian Law and Society, vol. 11, no. 1, 2020, pp. 53-72.
3. Indian Divorce Act, 1869, § 10 (India).
4. Indra Sarma v. V.K.V. Sarma, AIR 2013 SC 1185 (India).

5. Malhotra, Anil K., and Suri, Ranjana. "Live-in Relationships in India: Legal and Social Aspects." Indian Journal of Social Work, vol. 70, no. 3, 2009, pp. 401-418.
6. Muslim Personal Law (Shariat) Application Act, 1937, § 2 (India).
7. The Domestic Violence Act, 2005, § 2(f) (India).
8. The Hindu Marriage Act, 1955, § 7 (India).
9. Upadhyay, Prashant. "Emerging Trends in Live-in Relationships: A Socio-legal Analysis." Journal of Legal Studies and Research, vol. 3, no. 1, 2017, pp. 45-58.
10. Velusamy v. D. Patchaiammal, AIR 2010 SC 469 (India).
11. The Protection of Women from Domestic Violence Act, 2005. Published in: The Gazette of India, Extraordinary, Part II, Section 1, Government of India.